

## **ENFORCEMENT ACTIONS**

PIH-REAC's Quality Assurance Subsystem (QASS) is tasked with assuring that financial data received under the UFRS and PHAS are free of material misstatements. To this end, QASS identifies high-risk audit firms, performs Quality Assurance Reviews (QARs) to determine compliance with professional auditing and accounting standards and HUD requirements, and makes referrals to oversight bodies as appropriate.

Based on QARs performed in Fiscal Years 2001, 2002, and 2003 QASS decided to refer for potential action 21 public accounting firms who performed audits of entities covered by UFRS and PHAS. As of September 30, 2003, 69 referrals have been made to State Boards of Accountancy, 10 referrals to the AICPA, and seven referrals to the Departmental Enforcement Center. State Boards of Accountancy have jurisdiction over Certified Public Accountants (CPAs) who practice in their state. The AICPA's Professional Ethics Divisions investigates complaints against CPAs who are members of that organization. The Departmental Enforcement Center is the HUD office responsible for initiating suspension and department actions.

The Department is aggressively pursuing action against auditors who have egregiously violated professional standards and HUD requirements. To date – based on referrals made to oversight bodies as a result of QARs performed by QASS – the following enforcement actions have been taken or are proposed against IPAs:

### **Malcolm Johnson & Company, P.A.**

**Malcolm P. Johnson**

**James K. Barker, Jr.**

On April 29, 2004, The Department of Housing and Urban Development announced that it has settled a proposed debarment of the certified public accounting firm, Malcolm Johnson & Company, P.A. of DeBary, FL, Malcolm P. Johnson, and James K. Barker, Jr.

"The message is clear," said HUD Assistant Secretary Michael Liu, who heads up the agency's Office of Public and Indian Housing. "HUD expects federal funds to be accurately accounted for and we will not tolerate deficient audits involving HUD programs."

Under the settlement, Malcolm Johnson & Company, P.A., agreed to:

- Make an administrative payment of \$50,000 to HUD.
- Fund an independent accounting firm to perform a review of eight of the company's audits over a two-year period. HUD will choose the independent reviewer and the audits to be reviewed, and the auditors and the company provided a \$50,000 Letter of Credit to guarantee payment for the independent reviews.
- Restrict the number of public housing authority audits they perform over the next two years to 60 per year at PHAs having less than 1,250 units; and eliminate audits of PHAs with more than 1,250 units.
- Complete a limited number of audits currently under contract for PHAs with fiscal years ending March 31, 2003 and June 30, 2004.

The proposed debarments alleged that the firm failed to follow professional auditing standards in performing audits for housing authorities in: Gainesville and Miami Beach, FL; New Orleans, LA; Spartanburg, SC; Royston and Atlanta, GA; Cincinnati, OH; and Washington, D.C.

See <http://www.hud.gov/news/release.cfm?content=pr04-041.cfm> for the press release related to this action.

**Brewster & Associates**  
**Tom E. Brewster**

On April 29, 2004, The Department of Housing and Urban Development announced that it has settled a proposed debarment of the certified public accounting firm, Brewster & Associates of Pensacola, FL and Tom E. Brewster.

"The message is clear," said HUD Assistant Secretary Michael Liu, who heads up the agency's Office of Public and Indian Housing. "HUD expects federal funds to be accurately accounted for and we will not tolerate deficient audits involving HUD programs."

Under the settlement, Brewster & Associates agreed to:

- Abide by a two-year voluntary exclusion from participating in all transactions involving HUD funds including, but not limited to, performing audits and financial reviews; assisting other persons or businesses that are performing audits and financial reviews for PHAs or HUD-insured or assisted projects.

The proposed debarments alleged that the firm failed to follow professional auditing standards in performing audits for public housing authorities.

See <http://www.hud.gov/news/release.cfm?content=pr04-041.cfm> for the press release related to this action.

**Mike Estes, P.C.**  
**Mike Estes**

On October 28, 2003 The Department of Housing and Urban Development announced that it has settled a proposed debarment of the certified public accounting firm Mike Estes, P.C. of Fort Worth, Tex., and of its president Mike Estes.

"This settlement protects resources that are meant to benefit public housing residents," said HUD Assistant Secretary Michael Liu, who heads up the agency's Office of Public and Indian Housing. "The Department will continue to aggressively prosecute CPAs who conduct deficient audits involving HUD programs."

Under the settlement, Estes and the company has agreed to:

- Make an administrative payment of \$50,000 to HUD.
- Have an independent accounting firm perform a review of eight audits over a two-year period.
- Place an additional \$50,000 in escrow to cover costs of independent reviews of their work over the next two years. HUD will choose the independent reviewer and the audits to be reviewed.

- Reduce the number of public housing authority audits they perform over the next two years to only 30 per year.

In addition to these provisions, Estes and company will correct any noncompliance reported by the independent reviewer and will implement any recommendations for changes in its accounting and auditing practices. The parties negotiated this settlement after Estes and his company approached HUD in an effort to avoid further litigation.

The proposed debarments alleged that the firm failed to follow professional auditing standards in performing audits for housing authorities in: St. Charles Parish, City of Crowley, City of Gibsland, Town of Ferriday, and City of Houma, Louisiana, and Henderson and Monahans, Tex.

See <http://www.hud.gov/news/release.cfm?content=pr03-118.cfm> for the press release relating to this action.

**Kendall L. Davis, PC**  
**Kendall L. Davis**

The North Carolina State Board of Public Accountant Examiners, based on the results of quality assurance review by QASS, and in lieu of further proceedings under 21 NCAC Chapter 8C, agreed to the following Order with Kendall L. Davis, PC and Kendall L. Davis (Respondent):

1. Respondent and Respondent Firm are censured.
2. Respondent is required to, at all times, be present on site as the supervisor of all North Carolina housing authority audits while such audits are being performed by or on behalf of Respondent Firm
3. Respondents shall submit to the Board at the acceptance of this Consent Order the names of all North Carolina public housing authority clients for whom Respondents are engaged to perform audits during the twelve months following entry of this Consent Order.
4. Respondents shall obtain a pre-issuance review of each report (including work papers) Respondent of Respondent Firm prepares for North Carolina public housing authority audit clients identified pursuant to Paragraph 3 above. The pre-issuance reviewer shall be approved by the Board prior to performing said reviews. Respondents shall authorize and cause the pre-issuance reviewer to provide a copy of each pre-issuance review to the Board upon issuance.
5. Respondents shall reimburse the Board administrative costs incurred in the investigation of this matter. Said administrative costs shall be remitted with this signed Order.

The QASS quality assurance review found Kendall L. Davis, PC in violation of generally accepted auditing standards, generally accepted government auditing standards, OMB Circular A-133, and AICPA's Statements on Standards for Attestation Engagements. Kendall L. Davis PC audited 87 public housing authorities in 6 states including 15 in North Carolina from March 31, 2000 through December 31, 2000.

**[Click Here](#) for NCSB newsletter with more details.**

**Darnell & Thompson, P.C.**  
**Thomas Richard Thompson**

The North Carolina State Board of Public Accountant Examiners, based on the results of quality assurance review by QASS, and in lieu of further proceedings under 21 NCAC Chapter 8C, agreed to the following Order with Darnell & Thompson, P.C. and Thomas Richard Thompson (Respondent):

1. Respondent and Respondent Firm are censured.
2. Respondent is required to, at all times, be present on site as the supervisor of all North Carolina housing authority audits while such audits are being performed by or on behalf of Respondent Firm
3. Respondents shall annually submit to the Board the names of all audits to be performed for North Carolina housing authority clients.
4. Respondents shall obtain a pre-issuance review of all North Carolina housing authority audits, including work papers, prepared by Respondent or on behalf of Respondent's firm. The pre-issuance reviewer shall be approved by the Board prior to performing said reviews. Respondents shall authorize and cause the pre-issuance reviewer to provide a copy of each pre-issuance review to the Board upon issuance.
5. Respondents shall reimburse the Board administrative costs incurred in the investigation of this matter. Said administrative costs shall be remitted with this signed Order.

The QASS quality assurance review found Darnell & Thompson, P.C. in violation of generally accepted auditing standards, generally accepted government auditing standards, OMB Circular A-133, and AICPA's Statements on Standards for Attestation Engagements. Kendall L. Davis PC audited 43 public housing authorities in 8 states including at least 2 housing authorities in North Carolina from March 31, 2000 through December 31, 2000.

[Click Here](#) for NCSB newsletter with more details

**Lloyd Harrison, CPA**

The State of New Mexico, Office of the State Auditor (SAO) initiated a complaint against Mr. Lloyd Harrison, CPA based upon five financial statement audits he conducted of the Village of Cuba, the Eastern Plains Council of Governments, the Village of Santa Clara, the Village of Wagon Mound, and the Village of Pecos, all of which included Public Housing Agencies (PHAs). The SAO specifically complained that the five audits of the aforementioned PHAs for fiscal year ending June 30, 2000, included numerous instances of substandard work based upon working paper quality assurance reviews jointly performed by the SAO and QASS. It was alleged that Mr. Harrison's audits were not in compliance with eight of the ten generally accepted auditing standards.

Mr. Harrison waived his rights to a hearing under the Licensing Act, 61-1-1 et seq. N.M.S.A. These rights included the right to a Notice of Contemplated Action; the right to conduct discovery of all witnesses and evidence to be used against him; the right to a hearing before the Board; the right to cross-examine all witnesses and evidence; and the right to appeal any Board decision.

In waiving his rights, Mr. Harrison neither admitted nor denied the allegations. He agreed to limit his practice of public accountancy by neither performing nor planning to perform any governmental audit or attest services that would include PHAs.

If at any time Mr. Harrison wishes to remove his agreed upon limitation, he is required to notify the Board of his intent to offer such services and to complete 24 hours of continuing education in the area of HUD and PHA prior to offering the aforementioned governmental audit or attest services.

Mr. Harrison further agreed that failure to fulfill agreement requirements will be considered a violation of the Code of Professional Conduct, Rule 407-Acts Discreditable, and may serve as a basis for Board disciplinary action. (Source: New Mexico State Public Accountancy Board newsletter – Winter/Spring 2002)

### **John J. Schonberger, Jr., CPA**

The State of New Mexico, Office of the State Auditor (SAO) initiated a complaint against Mr. John J. Schonberger, Jr., CPA based upon his audits of the financial statements of the Public Housing Authorities for the Village of Cimarron, the Town of Springer, and the Town of Vaughn for the fiscal year ending June 30, 2000. The SAO specifically complained that the audits of the three aforementioned PHAs included numerous instances of substandard work based upon working paper quality assurance reviews jointly performed by the SAO and QASS. It was alleged that Mr. Schonberger's audits were not in compliance with nine of the ten generally accepted auditing standards.

Mr. Schonberger waived his rights to a hearing under the Licensing Act. In waiving his rights, Mr. Schonberger neither admitted nor denied the complaint allegations. He agreed to complete three SAO-approved fiscal year 2001 audits of the PHAs for the Village of Cimarron, the Town of Springer, and the Town of Vaughn. Following completion of the three aforementioned fiscal year 2001 PHA audits, he agreed to limit his practice of public accountancy by neither performing nor planning to perform any governmental audit or attest services that would include PHAs.

To remove his agreed upon limitation, Mr. Schonberger is required to notify the Board of his intent to offer such services and to complete 24 hours of continuing education in the area of HUD and PHA prior to offering the aforementioned governmental audit or attest services.

Mr. Schonberger further agreed that failure to fulfill agreement requirements will be considered a violation of the Code of Professional Conduct, Rule 407-Acts Discreditable, and may serve as a basis for Board disciplinary action. (Source: New Mexico State Public Accountancy Board newsletter – Winter/Spring 2002)

### **Sandra Rush, CPA**

The State of New Mexico, Office of the State Auditor (SAO) initiated a complaint against Ms. Sandra Rush, CPA based upon her audit of the financial statements of the Public Housing Authority for the town of Mountainair, for the fiscal year ending June 30, 2000. The SAO specifically complained that the audit of the aforementioned PHA for the fiscal year ending June 30, 2000, included numerous instances of substandard work based upon working paper quality assurance reviews jointly performed by the SAO and QASS. It was alleged that Ms. Rush's audit was not in compliance with seven of the ten generally accepted auditing standards.

Mr. Rush waived here rights to a hearing under the Licensing Act. In waiving here rights, Ms. Rush neither admitted nor denied the complaint allegations. She agreed to limit her practice of

public accountancy by neither performing nor planning to perform any governmental audit or attest services that would include PHAs.

If at any time Ms. Rush wishes to remove her agreed upon limitation to neither perform nor plan to perform any governmental audit or attest services that would include PHAs, she is required to notify the Board of her intent to offer such services and to complete 24 hours of continuing education in the area of HUD and PHA prior to offering the aforementioned governmental audit or attest services.

Ms. Rush further agreed that failure to fulfill agreement requirements will be considered a violation of the Code of Professional Conduct, Rule 407-Acts Discreditable, and may serve as a basis for Board disciplinary action. (Source: New Mexico State Public Accountancy Board newsletter – Summer/Fall 2002)